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5 **NOT FOR PUBLICATION**

6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 David L. Mazet,

10 Plaintiff,

11 vs.

12 Halliburton Company Long-Term
13 Disability Plan, et al.,

14 Defendants.
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No. CV-04-0493-PHX-FJM

ORDER

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18 On September 16, 2010, we issued an order concluding that plaintiff is entitled to
19 long-term disability (“LTD”) benefits during the “any occupation” period and directing
20 Hartford to perform “an immediate calculation and payment of benefits” (doc. 113). The
21 order did not address the question of prejudgment interest. On October 29, 2010, plaintiff
22 filed a motion to enforce the order and judgment (doc. 116). On November 9, 2010, Hartford
23 issued a check to plaintiff in the amount of \$224,443.42 for LTD benefits. Although it had
24 not been ordered to do so, Hartford also issued a check to plaintiff in the amount of
25 \$13,120.72 for prejudgment interest at a rate of 1.67% per year pursuant to 28 U.S.C. § 1961.
26 Plaintiff rejected the interest payment, contending that the appropriate rate of prejudgment
27 interest is 10% under Arizona state law. See A.R.S. § 20-462. The parties agree that the
28 only issue remaining relative to this motion is whether prejudgment interest should be

1 calculated by using the federal or the state rate.

2 We first reject plaintiff's contention that Hartford should be found in contempt for
3 failing to timely comply with our September 16, 2010 order. Plaintiff has not met his burden
4 of establishing that Hartford violated a "specific and definite court order." See Reno Air
5 Racing Ass'n v. McCord, 452 F.3d 1126, 1130 (9th Cir. 2006). Hartford had 28 days after
6 entry of our September 16 order to file a motion to alter or amend the judgment. Fed. R. Civ.
7 P. 59(e). It chose not to file the motion and instead calculated and paid plaintiff's LTD
8 benefits less than 4 weeks after that deadline expired. This constitutes reasonable
9 compliance with our order.

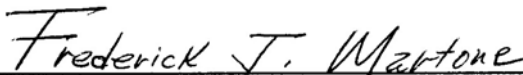
10 We also reject plaintiff's claim that he is entitled to an enhanced rate of prejudgment
11 interest under Arizona law rather than the rate set by federal law. Whether to grant or deny
12 prejudgment interest on an award of ERISA benefits is within the discretion of the district
13 court. See Blankenship v. Liberty Life Assur. Co., 486 F.3d 620, 627 (9th Cir. 2007).
14 Generally, "the interest rate prescribed for post-judgment interest under 28 U.S.C. § 1961 is
15 appropriate for fixing the rate of pre-judgment interest unless the trial judge finds, on
16 substantial evidence, that the equities of that particular case require a different rate." Id. at
17 628 (quoting Grosz-Salomon v. Paul Revere Life Ins. Co., 237 F.3d 1154, 1164 (9th Cir.
18 2001)).

19 Having considered the equities in this case, we conclude that prejudgment interest is
20 appropriate to fully compensate plaintiff for the denial of LTD benefits. We cannot
21 conclude, however, that the equities dictate that we deviate from the generally prescribed
22 federal rate in favor of an enhanced rate under Arizona state law. There is no showing, for
23 example, that Hartford acted in bad faith in denying plaintiff's LTD benefits. The ongoing
24 and alternating history of this litigation demonstrates Hartford's reasonably debatable
25 benefits eligibility decision. Moreover, Hartford's voluntary calculation of interest in other
26 contexts does not control our balancing of the equities at this stage of the proceedings.
27 Because there is no evidence that this case warrants a departure, we grant prejudgment
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1 interest in accordance with 28 U.S.C. § 1961.¹ Pursuant to Blanton v. Anzalone, 760 F.2d
2 989, 992-93 (9th Cir. 1985), the applicable interest rate is the one in effect immediately prior
3 to the date of the wrongful conduct, which in this case is Hartford's failure to pay LTD
4 benefits. Therefore, pursuant to 28 U.S.C. § 1961, the amount of prejudgment interest will
5 be determined by reference to the 52-week U.S. Treasury bill rate paid for the period
6 immediately prior to each unpaid benefit.

7 **IT IS ORDERED GRANTING IN PART AND DENYING IN PART** the motion
8 to enforce judgment (doc. 116). Plaintiff is awarded prejudgment interest at the rate
9 prescribed by 28 U.S.C. § 1961. The parties shall work cooperatively in order to properly
10 calculate the amount of prejudgment interest.

11 DATED this 18th day of January, 2011.

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14 Frederick J. Martone
15 United States District Judge
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27 ¹Because we conclude that the equities in this case do not warrant an enhanced
28 prejudgment interest award, we need not reach the question of whether A.R.S. § 20-462 is
“saved” from ERISA preemption under 29 U.S.C. § 1144(a).